

AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings includes changes to Figures 1, 2, 5-7, 8 and 14. These sheets, which includes Figure 1, 2, 5-7, 8 and 14, replaces the original sheets including Fig. 1, 2, 5-7, 8 and 14.

Attachment: Replacement Sheet

Annotated Sheet Showing Changes

REMARKS

I. Background

The present Amendment is in response to the Examiner's Office Action mailed April 17, 2007. The Office Action rejects claim 3 as being indefinite and claims 3-7 as being obvious over cited art. Claim 3 has been presently amended herein, and new claims 26-29 have been added. Claims 3-7 and 26-29 are currently pending, of which claim 3 is the only independent claim at issue.

Reconsideration of the application is respectfully requested in view of the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

II. Proposed Drawing and Claim Amendments

The amendments to the drawings correct certain typographical errors. The amendments to the drawings, claims, and addition of new claims 26-29 are supported by the figures, specification, and claims as originally filed. In view of the foregoing discussion, Applicant submits that the amendments to the drawings and claims do not introduce new matter and entry thereof is respectfully requested.

III. Rejections on the Merits

A. Rejections Under 35 U.S.C. § 112

The Office Action rejects claim 3 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.¹ Specifically, the Office Action alleges that there is

¹ Although the Office Action states that "claim 1" is rejected under 35 U.S.C. 112, Applicant assumes the Examiner intended "claim 3" as claim 1 was canceled in a prior paper and thus not pending at the time of the Office Action. If this assumption is incorrect, please advise accordingly.

insufficient antecedent basis for “the side” recited in that claim. In view of amendments made herein to claim 3, Applicant respectfully submits that the rejection has been overcome and should be withdrawn.

B. Rejections Under 35 U.S.C. § 103(a)

The Office Action rejects claims 3-7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,242,459 to *Buelna* in view of U.S. Patent No. 5,797,929 to *Andreas*.² Applicant respectfully traverses the rejection.

Applicant submits that claims 3-7 are not rendered obvious by the allegedly obvious combination because the combination does not teach or suggest all the claim limitations recited in the rejected claims. In particular, Applicant submits that the allegedly obvious combination does not teach or suggest “a shaft ... [and] an opening formed in the side of the shaft.” as recited in claim 3 in conjunction with the other limitations of claim 3.

In the rejection of claim 3, the Office Action, asserts that *Buelna* teaches “a shaft 16..., a suture retainer 12 ... [and] an opening 38 formed in the side of the shaft...” It does not appear, however, that this characterization of *Buelna* is consistent with the requirements of claim 3. For example, as shown in Figure 4 of *Buelna*, opening 38 is formed in “shaft 12,” identified in the Office Action as corresponding to the “suture retainer” recited in claim 3. “Shaft 12” is separate and distinct from “body member 16,” identified in the Office Action as corresponding to the “shaft” recited in claim 3. As such, *Buelna* at most teaches an opening in “suture retainer 12,” not in “shaft 16.” Thus, contrary to the assertion of the Office Action, even if, *arguendo*, body member 16 is considered as the “shaft,” *Buelna* fails to teach “an opening formed in the side of the shaft,” as recited in claim 3. For at least this reason, *Buelna* fails to disclose each and every element of claim 3.

Andreas is cited in the Office Action merely for allegedly teaching a groove formed in the side of a shaft. As such, even if, *arguendo*, it would have been obvious to combine *Buelna* with the aforementioned teachings of *Andreas* in the allegedly obvious manner set forth in the Office Action, the resulting combination would still not cure the deficiencies of *Buelna* with regard to claim 3. Accordingly, because the allegedly obvious combination does not disclose

² Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

each and every element of claim 3, Applicant respectfully submits that claim 3 is in condition for allowance. Claims 4-7 depend from claim 3 and thus incorporate the limitations thereof. As such, applicants submit that claims 4-7 are distinguished over the cited art for at least the same reasons as discussed above with regard to claim 3, and are also in condition for allowance. Accordingly, Applicant respectfully requests that the obviousness rejection of claims 4-7 be withdrawn.

IV. Conclusion

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds and remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 17th day of August, 2007.

Respectfully submitted,

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